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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 002730

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E.O. 12958: DECL: 09/23/2029

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SUBJECT: REFCOORD MEETING WITH MFA: REFUGEE LEGISLATION,
DPRKS IN CHINA, AND BURMA-CHINA BORDER REFUGEES

REF: BEIJING 821

Classified By: PolMinCouns Aubrey Carlson. Reasons 1.4 (B) and (D).

11. (C) Summary: China has worked to pass domestic refugee legislation for the past 10 years, but "technical issues" and differences among interested ministries have prevented the legislation from being codified into law, according to an MFA official. Reiterating the well-known PRC position on North Koreans in China, the MFA official stated that North Koreans who illegally enter China are not refugees but "economic migrants," and that UNHCR is not the "competent authority" to deal with DPRK "migrants" in China. In addition, the MFA official underscored that if UNHCR extends its involvement to additional DPRK nationals, "the result will be diminished future cooperation." The cross-border refugee situation that arose in late August as result of fighting in the Kokang region of Burma was a "bilateral issue between China and Burma" and did not require "foreign" assistance, the official stressed. End Summary.

PRC Domestic Refugee Legislation) 10 Years and Counting

12. (C) In response to an overview of the U.S. Refugee Program (USRP) provided by Embassy Bangkok RefCoord September 22, MFA International Organizations and Conferences Department UN Specialized Agencies Division Deputy Director Qiao Huijun acknowledged that refugee status determination in China was difficult because China did not have a centralized set of laws to govern refugee issues. China had launched a domestic refugee legislation process ten years ago and was close to finalizing the text of the legislation. According to Deputy Director Qiao, the draft legislation prepared under the supervision of the Office of National Legislation at the State Council embodied the spirit of the 1951 UN Convention related to the Status of Refugees and mirrored the UN definition for refugee determination. Under provisions of the draft law, the Ministry of Public Security's Foreign Affairs Department would have jurisdiction over refugee status determination, the Ministry of Civil Affairs would oversee resettlement (including temporary resettlement in China), and the MFA would be responsible for coordination and liaison with foreign partners, including the UNHCR. Qiao acknowledged that final agreement on the draft legislation was held up over "technical issues," including disagreements among the three ministries over the division of authority stipulated in the law. He offered no timeframe for a final approval of the legislation.

Capacity Building

13. (C) In support of drafting a refugee law, PRC officials had visited several European countries, including Germany and Romania, to study how countries handle refugees, Deputy Director Qiao said. China and Romania faced comparable experiences with refugees, according to Qiao, as both were "transit countries" with "similar situations." The PRC had sent a delegation last year to Italy, France and the UK to see the refugee camps located in those countries, because it was important for MPS personnel to see how detention centers were set up. The MPS and local Public Security Bureau had held workshops in conjunction with UNHCR focused on capacity building and refugee status determination.

DPRK Refugees in China) Mixed Messages

14. (C) Hewing closely to the official PRC position on North Koreans in China, Deputy Director Qiao reiterated that the PRC considered North Koreans who had illegally entered China as economic migrants and that UNHCR did not have the competency to deal with North Koreans in China. Qiao underscored that if the UNHCR extended its involvement to additional DPRK nationals, "the result will be diminished future cooperation." Striking a more conciliatory tone, Qiao said that China would maintain a "tolerant spirit" and that China would consider each specific case on a "humanitarian basis." In response, PolOff insisted that given UNHCR's refugee protection mandate, UNHCR was the most appropriate agency to provide assistance to refugees, including North Koreans who had entered China, and the United States supported its efforts to provide assistance to North Koreans seeking refugee status in China. (Note: UNHCR officials

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told us in meetings on March 26 (reftel), August 17 and September 22 that the Chinese government had increased its pressure on the UNHCR to back away from DPRK refugee cases in China. According to UNHCR Senior Regional Protection Officer Nai Jit Lam, the Chinese message to his office had hardened from "please don't get involved" to "do not interfere with our domestic policy." End note.)

Burmese Refugees in China

15. (C) China had turned down all offers of assistance from the UNHCR since the fighting on the Burmese side of the PRC-Burma border broke out in late August, Qiao affirmed. Calling those who had fled their homes in Burma not refugees but "border civilians," Qiao said simply that the conflict on the Burmese side of the border was a domestic issue for the government of Burma to address. "The issue in the frontier has settled down," Qiao said. Addressing the needs of those who had fled across the border was a bilateral issue that would be dealt with competently by the PRC and Burma, and at this point, Qiao stressed, it was "not appropriate" for foreign groups to get involved.

HUNTSMAN